

REMARKS

Favorable reconsideration is solicited for the following reasons.

Claims 1 and 3-10 stand rejected under 35 U.S.C. 102(e) as being anticipated by Tropsch et al. This rejection is traversed. The rejection over Tropsch et al. is clearly unfounded. The examiner incorrectly cites the applicants' specification in his assertion that Tropsch et al. discloses a crosslinker. The passage on page 8, lines 8-10 of the applicants' specification reads:

“ Suitable crosslinkers are, for example, acrylic esters, methacrylic esters, allyl ethers or vinyl ethers of at least dihydric alcohols. “

The specification continues:

“ ...the crosslinkers contain at least two ethylenically unsaturated groups. “

It is clear that not every acrylic and methacrylic ester acts as a crosslinker but only the acrylic or methacrylic esters of at least dihydric alcohols which contain at least two ethylenically unsaturated groups. Thus, the reference to C₁-C₁₂-alkyl esters of acrylic acid or of methacrylic esters does not imply the use of a crosslinker. Favorable reconsideration is solicited.

Claims 1 and 3-10 stand rejected under 35 U.S.C. 102(e) as being anticipated by Uhl et al. This rejection is traversed. The disclosure of Uhl et al. relates to thickeners for textile print pastes and is not relevant to the subject matter claimed herein. Favorable reconsideration is solicited.

Claims 1-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tropsch et al. and Uhl et al. This rejection is traversed. There is no suggestion to

HOESSEL et al.

Serial No. 09/604,001

combine Uhl et al. whose disclosure relates to thickeners for textile print pastes and

Tropsch et al. whose disclosure relates to liquid formulations for use on the skin.

Assuming, *arguendo*, that it would have been obvious to combine the cited prior art as contended by the examiner the comparative test data at pages 26-7 of the specification disproves any presumption of obviousness that might arise. The data shows that the results are inferior if the polymer according to the invention is replaced by the same amount of an uncrosslinked copolymer in skin cream C. These results are unexpected and render the invention claimed herein patentable.

Claims 1-13 stand rejected on the grounds of obviousness-type double patenting as being unpatentable over the claims of Tropsch et al. in view of Uhl et al. This rejection is traversed. Since there is no suggestion to combine Uhl et al. whose disclosure relates to thickeners for textile print pastes and Tropsch et al. whose disclosure relates to liquid formulations for use on the skin, there is no tenable basis for the rejection of attempted double patenting. Thus, no terminal disclaimer should be required. Favorable reconsideration is solicited.

In view of the foregoing amendment, the remarks and the comparative test data in the specification, the subject matter claimed herein is patentable, and a Notice of Allowance is solicited.

Please find attached a check for \$110.00 for one month extension of time fee.

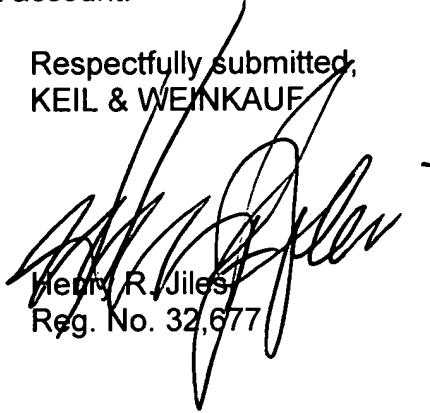
To the extent necessary, applicant(s) petition for an Extension of Time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this

HOESSEL et al.

Serial No. 09/604,001

paper, including Extension of Time fees to Deposit Account No. 11-0345. Please credit any excess fees to such deposit account.

Respectfully submitted,
KEIL & WEINKAUF

A large, stylized handwritten signature in black ink, appearing to read "Henry R. Jiles".

Henry R. Jiles
Reg. No. 32,677

1101 Connecticut Ave., N.W.
Washington, D.C. 20036
(202)659-0100
HRJ/mks